



CONFIDENTIAL INTEROFFICE MEMORANDUM

Date: April 8, 2016
To: Sergeant Brent Miller
From: Chief Jason Salazar
Subject: Notice of Discipline –Four Day Suspension Without Pay; Extended Probation
VPD IA # 2015-05

On March 10, 2016, you received a Notice of Intent to Discipline – Demotion. At that time you were advised that you may respond to the proposed discipline to me orally or in writing on or before March 21, 2016.

On March 31, 2016 I met with you, at which time you exercised your opportunity to respond to the intended discipline before a final decision was made. I have thoroughly reviewed and considered your response together with all supporting documentation. Based upon my review of this information I have decided to amend the discipline from demotion as follows:

- You will receive a four (4) day suspension, equivalent to Forty (40) hours, without pay. The dates of the suspension will be April 22-25, 2016
- Your probation period will be extended one (1) year, ending July 7, 2017

My decision is based on the following:

An Internal Affairs Investigation (2015-05) was initiated regarding your June 2, 2014 conduct, which was brought to the Visalia Police Department's attention on August 18, 2015. The investigation has concluded. The action is being taken because there is sufficient evidence to conclude you falsely reported, under penalty of perjury, to the DMV the purchase price of the vehicle in question to avoid paying the full amount of taxes owed, or changed your initial plan to falsely report the price paid, but failed to pay appropriate taxes relating to the sale. Specifically:

- On or about June 1, 2014 you purchased a **REDACTED** Jeep from **REDACTED**
- You submitted a Certificate of Title to the DMV stating you purchased the vehicle for what appears to be \$500. This was signed and dated by you, under penalty of perjury, on June 2, 2014. The \$500 amount is the same amount the seller reported to the DMV.
- You then paid DMV sales tax and fees in the amount of \$56, which was based on a purchase price of \$500.
- Later, on or about June 2015, during a DMV investigation, you told a DMV investigator you purchased the vehicle for \$9,000.
- During our Internal Affairs investigation, on or about October 28, 2015, you told Lieutenant **REDACTED** that you paid \$9,500 for the vehicle.
- When shown a copy of the Certificate of Title form with your attention drawn to the "purchase price" section, you denied it read, "\$500," and claimed it read, "9500."
- During your interview with Lt. **REDACTED** you admitted you originally wrote \$500 as the (false) purchase price of the vehicle, conceding a plan to pay less than the full amount of taxes owed by you for your purchase. You went on to say, while in the parking lot of the DMV before going inside to submit the Certificate of Title form, you modified the purchase price to \$9500 by changing the dollar sign (\$) to a nine (9). However, when you changed the title into your name with the DMV, you only paid sales tax and fees on \$500 – a total of \$56 (\$41 in taxes and \$15 in fees).
- On October 29, 2015, 16 months after you purchased the Jeep and the day after your investigative interview about these very issues, you went to the DMV to correct what you categorized as a "clerical error." In a phone conversation initiated by you with Lt. **REDACTED** you confirmed paying taxes based on a \$500 purchase price.
- On October 30, 2015 you again returned to DMV and made what is referred to as a "Conscience Payment" in the amount of \$742, which corresponds to the amount of taxes/fees due on a \$9,000 purchase. According to the DMV Administrative Manager, a "DMV Conscience Payment" is one that is made by individuals who lie when providing a vehicle purchase price in order to avoid paying taxes, or when individuals fraudulently declare a "non-op" status in order to avoid paying fees. It is typical for a Conscience Payment to be made when an individual's fraudulent activity is discovered.

Throughout this investigation and by your own admissions, the amount you claim to have paid for the vehicle is in dispute. The prices of \$500, \$9,000 and \$9,500 have all been offered by you either under penalty of perjury, or through a formal investigation in which you were expected and/or admonished to be completely truthful and candid in your

responses. While you admit the \$500 amount was not correct, you contradicted yourself as to the actual amount you paid – telling the DMV investigator you paid \$9,000 and stating during your VPD investigative interview you paid \$9,500.

During your IA interview, you claim to have purchased the vehicle for \$9,500 and changed the dollar sign to the number nine, leaving the “500” figure intact and making the number 9500. Taken as true, it means you lied to the DMV investigator. However, your explanation (changing “\$” to “9”) is suspect because what you claim to be a “9” appears, on its face, to be a “\$.” This Certificate of Title was also reviewed by a DMV investigator, the District Attorney’s Office and our IA investigators and the changing of the dollar sign did not appear obvious or believable.

In addition, you have a habit and practice of writing a “\$” sign when writing dollar amounts in your work with the Visalia Police Department, and also have a habit and practice of making corrections dark and definite in your work with the Visalia Police Department. As they relate to your explanation, neither of those habits or practices exist here.

When paying the taxes and fees at the time of your June 2, 2014 purchase, you failed to question the amount of fees being charged by the DMV. The difference between a \$500 purchase and a \$9,000 or \$9,500 purchase, as the case may be, should be reasonably obvious. Based on a \$500 purchase price, you paid the DMV only \$56; you should have readily known that amount was not reflective of the taxes owed based on the amount you claim to have included on the Certificate of Title form; there was more than a \$700 difference in your favor. This large dollar amount should have been obvious to a reasonable person, especially one that just had a revelation he wanted to do the right thing and not report a false purchase price to the DMV. This discrepancy lends itself to the reasonable conclusion that you were aware or should have been aware, the purchase price listed on the Certificate of Title used to calculate the amount of taxes due was incorrect, which casts a shadow over the validity and truthfulness of your interview statements. The fact a DMV Clerk did not question you about the purchase price you recorded, does not transfer responsibility of your conduct to the DMV.

Even if one believed your statement that you changed the dollar sign to a nine to correctly reflect the purchase price of the vehicle, there still remains the fact that you failed to pay the appropriate taxes for the vehicle transaction for 16 months, and only until these issues came to light and you were interviewed about your conduct.

For these reasons, there is sufficient evidence to conclude you were dishonest during the DMV or IA investigation regarding the purchase price of the vehicle; and either falsely, and under penalty of perjury, reported the sales price of the vehicle in question, or knowingly failed to pay appropriate taxes relating to the sale and failed to correct that until your misconduct had been discovered.

Actions displayed by you raise serious concerns over your integrity and truthfulness, especially for someone of your tenure and rank within the Visalia Police Department. You

exercised poor judgment and failed to maintain the high ethical standards required of a sworn officer of this department.

Your actions were found to be in violation of the following:

Visalia Police Department Policies and Procedures:

1. **VPD Policy 340.3.5 (o) – PERFORMANCE** – Criminal, dishonest, infamous or disgraceful conduct, adversely affecting the employee/employer relationship, whether on or off-duty.
2. **VPD Policy 340.3.5 (p) – PERFORMANCE** – Failure to disclose or misrepresenting material facts, or the making of any false or misleading statement on any application, examination form, or other official document, report or form or during the course of any work-related investigation.
3. **VPD Policy 340.3.5 (z) – PERFORMANCE** – Violating any misdemeanor or felony statute.

- 118(a) PC – Perjury

4.

REDACTED

City of Visalia Policies¹:

1.

REDACTED

2.

REDACTED

3.

REDACTED

4.

REDACTED

¹ These are the City of Visalia policies that were in place at the time the conduct occurred.

Such unreasonable and deceitful behavior cannot and will not be tolerated of any City employee and especially an officer of this Department. During the IA investigation, you had the opportunity to be candid and forthright with respect to your conduct – to explain why you offered the DMV investigator a different purchase price than you did the IA investigator, to candidly admit you intended to falsely report the purchase price to reduce the amount of taxes you would have to pay, to admit you were wrong in doing so, to express remorse. You failed to do so, which only further damaged your credibility and further harmed the Department's reputation. Your badge is a symbol of public faith, and as a City of Visalia Police Sergeant, you accepted it as a public trust to be held by you.

I appreciate your more candid and forthright responses, and you acknowledging your accountability for your conduct, which you offered during our meeting together. Those things serve as one of the mitigating factors here. However, you must understand your credibility has been damaged and the tolerance for your deceit and concealment has been exhausted. You must conduct yourself in a way that is consistent with your position. Our Department's organizational values require impeccable honesty, integrity, and respect. As a police sergeant, you are held to a higher standard, expected to exercise sound judgment and decision-making, and are expected to set a positive example, particularly as a supervisor and as a holder of the public's trust. Your behavior is conduct unbecoming to a member of this Department and is contrary to the Department's good order, efficiency, and protective obligations. Your conduct reflects unfavorably on this Department.

To avoid further and more severe disciplinary action, it is imperative that you improve in these areas. Your strict compliance with our organizational values is expected at all times. Immediate and sustained improvement is required on your behalf or further disciplinary action will be taken, up to and including termination.

This Notice of Discipline – Four Day Suspension Without Pay; Extended Probation is executed April 8, 2016 in Visalia, California.

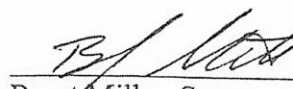


Jason Salazar, Chief

4/8/16
Date

ACKNOWLEDGMENT

I acknowledge that I have received a copy of this Notice of Discipline –Four Day Suspension Without Pay; Extended Probation – VPD IA #2015-05.



Brent Miller, Sergeant

4.8.16
Date

Original – Human Resources
Copy – Personnel File